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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,697	04/05/2001	Michael Baj	74120-301397	4200
25764	7590	10/05/2005	EXAMINER	
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER MINNEAPOLIS, MN 55402			PHILPOTT, JUSTIN M	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,697

Applicant(s)

BAJ, MICHAEL

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☒ Claim(s) 1-24 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050711</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 11-17, filed July 11, 2005, with respect to the previously cited prior art in view of the amendments to independent claims 1, 10, 16 and 20 have been fully considered and are persuasive. The prior art rejections of claims 1-22 have been overcome by applicant's amendment.

Claim Objections

2. Claims 1-26 are objected to because of the following informalities:

Regarding claim 10, the phrase, "that reside a plurality of transmission paths" (claim 10, lines 6-7 and lines 12-13) is unclear as to what applicant is describing. If appropriate, it is suggested that applicant amend this limitation to recite, e.g., "that reside couple a plurality of transmission paths" or "that reside within a plurality of transmission paths". Otherwise, further clarification of this limitation is required. Also, "the Quality of Service (QoS)" (claim 1, line 1) should be changed to "~~the~~ a Quality of Service (QoS)" and "sending" (claim 1, line 9) should be changed to "~~sending~~ transmitting" to provide proper antecedent basis for "the transmission" recited in line 13.

Regarding claims 2-9 and 11-15, 24 and 25, these claims are objected to for their dependence upon objected claims 1 and 10, respectively.

Regarding claim 16, "the one or more possible faulty components" (claim 16, line 9) should be changed to "the one or more ~~possible~~ possibly faulty components" to maintain

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consistency in applicant's claim language; "the QoS" (claim 16, line 12) should be changed to "~~the~~ a QoS (Quality of Service)" or "~~the~~ a Quality of Service (QoS)"; and "the transmission" (claim 16, lines 12-13) should be changed "~~the~~ a transmission", or "send" (claim 1, line 10) should be changed to "transmit" to provide proper antecedent basis; and claims 17-19 are objected to for their dependence upon objected claim 16.

Regarding claim 20, "procedure; send" (claim 20, lines 8-9) should be changed to "procedure; and send".

Regarding claims 21-23 and 26, these claims are objected to for their dependence upon objected claim 20.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, applicant has added new claim 25 which comprises "routing the digital audio file around at least one of the one or more possibly faulty components and *determining if a change in the QoS of the voice transmission exists*" (emphasis added) which is not described in applicant's originally filed

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specification. While it appears pages 7-8 of applicant's specification discusses a related feature of "analyzing recorded call streams", it does not appear that the remainder of the specification describes the specific embodiment which applicant is now attempting to claim with newly added claim 25. Applicant may overcome this rejection by either canceling claim 25, removing the non-enabled portion of claim 25 from the claim, or citing a specific passage in applicant's originally filed specification which includes the limitations presently recited in new claim 25. It is also noted that applicant's assertion in page 18 of the Remarks (Amendment, July 11, 2005) that claim 25 is supported in page 6, lines 10-14 of applicant's originally filed specification is not sufficient, since this passage discusses directing *calls* to other gateways to see if *distortion* continues to exist, and does *not* refer to the routing *digital audio files* nor does it refer to a *QoS* of such transmissions.

Allowable Subject Matter

5. Claims 1-24 and 26 would be allowed if rewritten to overcome the objections as suggested above.

6. The following is a statement of reasons for the indication of allowable subject matter: independent claims 1, 10, 16 and 20 comprise allowable subject matter for reasons provided within applicant's arguments (pages 11-17) in view of the amendment to the claims, filed July 11, 2005. Claims 2-9, 11-15, 17-19, 21-24 and 26 depend upon one of independent claims 1, 10, 16 and 20 and thus comprise allowable subject matter for the same reasons as discussed above regarding claims 1, 10, 16 and 20.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

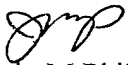
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

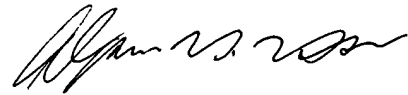
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Justin M Philpott



ALPUS H. HSU
PRIMARY EXAMINER